

LABOUR DEPARTMENT

The 15th May, 1968

No. 4403-Lab-68/12313.—In pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of, 1947) the President of India is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/s Reliance Fine Products, Mathura Road, Faridabad :—

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 114 of 1967

between

SHRI GOPAL WORKMEN AND THE MANAGEMENT OF M/S RELIANCE FINE PRODUCTS
MATHURA ROAD, FARIDABD.

Present :—

Shri Mohinder Singh, Office Secretary, for the workman.

Shri R. C. Wadhvani, for the management.

AWARD

The claimant Shri Gopal was in the service of M/s Reliance Fine Products, Mathura Road, Faridabad. It is alleged that he was dismissed from service without giving him any charge-sheet or a notice to show cause. This gave rise to an Industrial dispute and the President of India in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 read with proviso to that sub-section of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication, — vide Government Gazette Notification No. 557-SF-III-Lab-67, dated 29th November, 1967.

Whether the termination of services of Shri Gopal was justified and in order? If not, to what relief is he entitled?

On receipt of the reference, usual notices were issued to the parties in response to which the workman filed the statement of claim and the management filed their rejoinder to the same. On behalf of the management a preliminary objection was taken that there was no industrial dispute between the parties and that the management never received any notice of demand from the union. On merits it was pleaded that the claimant Shri Gopal was never dismissed from service. On the contrary he himself handed over the letter of resignation to the Manager of the respondent concern on 18th July, 1967 and on 21st July, 1967, he received a sum of Rs 205.50 in full and final settlement of all his dues up to date from the management inclusive of one month's notice pay. The statement of Shri Gopal was recorded before framing the issue. He stated that he was working as a helper with the respondent concern and was abused by one Suresh; he protested against this behaviour upon which he was treated rudely by Shri Gulati Chemist. The claimant stated that he could not tolerate this rude behaviour and was therefore given notice of termination of his services. He further stated that one lady Shrimati Bhatia who was in those days working in the respondent concern wrote down his resignation and got his signatures on it without telling him what she had written. The claimant stated that he came to know later on that his resignation had been taken and he received his salary, for 17 days as also his leave pay and notice pay. He however admitted that he did receive Rs 205.50 but stated that he never intended to resign and he received the money under misunderstanding. The pleadings of the parties give rise to the following issues :—

1. Whether the reference is bad in law for the right mentioned in the preliminary objections?
2. Whether the claimant resigned his service of his own free will?
3. Whether the claimant received the notice pay and leave pay, etc., under a misunderstanding? If so, what is its effect?
4. If the above issues are found in favour of the claimant, whether the termination of his services is justified and in order? If not, to what relief is he entitled?

The case was fixed for evidence on 5th March, 1968. On the date fixed Shri L. R. Wadhvani, representative of the management made a statement that his uncle Shri L. T. Wani had died at Agra and their Legal Adviser Shri H. C. Wadhvani had to go to Agra for this purpose. He requested for adjournment and accordingly the case was adjourned to 16th April, 1968 for evidence. On the date fixed Shri Mohinder Singh, Office Secretary of the General Labour Union was present on behalf of the workman, Shri Roshan Lal Sharma, President of the union did not appear although he was awaited upto 2.30 p. m. There after the evidence of the management was recorded. Neither the claimant was present nor his representative, Shri Mohinder Singh Produced any evidence in support of his case. No reason was given as to why the claimant was not present. My findings on the issues framed are as under :—

Issue No. 1.—Under section 2A of the Industrial Disputes Act, a workman can raise an industrial dispute if he is aggrieved by reason of the termination of his services. The case of the claimant is that the management have terminated his services without giving him any charge-sheet or notice to show cause. The order of reference can not therefore be said to be bad in law. I find this issue in favour of the claimant.

Issue No. 2—Shri L. R. Wadhwanl. Manager of the respondent concern has appeared in evidence and has stated that the claimant, Shri Gopal resigned his job on 18th July, 1967 of his own free will, — vide resignation Ex. M. 1 which bore his signatures. The witness indentified the signatures of the claimant on the resignation Ex. M. 1 and stated that the claimant did not complain that he had been maltreated or abused by Shri Suresh or Ghulatl. The witness says that after tendering the resignation the claimant went away and came again on 21st July, 1967 and received a sum of Rs 205.50 in full and final settlement of his dues which include his notice pay and the leave wages. The witness further says that no pressure was put on the claimant and that they did not receive any notice of demand from the workman concerned claiming reinstatement till November, 1967. In answer to the Court question, the witness stated that the claimant told him that he (claimant) was resigning his job because he was getting a new employment in Railway.

As already observed, the claimant has not appeared in evidence to rebut the version of the management and his representative Shai Mohinder Singh, Office Secretary of the union gave no reason as to why the workman was absent on the date fixed for evidence of the parties.

I have carefully considered the evidence of the management and I see no reason to disbelieve the evidence of the Manager of the respondent concern specially in view of the fact that the claimant himself has admitted in his statement before the issues that the resignation Ex. M. 1 bore his signatures although he added that it was not read over to him before his signatures were taken on it. However, the fact is that the claimant voluntarily received a sum of Rs 205.50 soon after leaving his job and did not raise any protest against the termination of his services till November, 1967 goes a long way to corroborate the version of the management that the claimant resigned his job of his own free will. The claimant could not give any explanation as to why he received this amount soon after leaving the job. He only stated that he received the money under a misunderstanding but did not explain what misunderstanding was ? Under these circumstances, it is not possible to hold that the claimant did not resign his job of his own free will and that his services were terminated by the management. I find this issues in favour of the management.

Issue No. 3.—No evidence has been lead on this issue by the claimant and I find this issue not proved.

Issue No. 4.—In view of my findings on issues Nos. 2 and 3, this issue does not arise and it held that the management was not responsible for the termination of the services of Shri Gopal and the termination of the services was not justified. The claimant is therefore not entitled to any relief. I give my award accordingly. No order as to costs.

Dated the 29th April, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No 835, dated the 8th May, 1968.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 29th April, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

The 16th May, 1968

No. 4412-3-Lab-68/12205.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the President of India is pleased to publish the following award of the Presiding Officer Labour Court Rohtak, in respect of the dispute between the workmen and management of M/s Electro Strips Industries, Mathura Road, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 12 of 1968

between

SHRI PRITAM DASS, WORKMAN AND THE MANAGEMENT OF M/S ELECTRO STRIPS INDUSTRIES, MATHURA ROAD, FARIDABAD.

Present :—

Shri Pritam Dass workman in person.

Shri I. B. Singh, with Shri Ishar Dass, for the management.

AWARD

Shri Pritam Dass was in the service of M/s Electro Strips Industries, Mathura Road, Faridabad as a Turner at Rs 175 P.M. It is alleged that his services were terminated on 9th December, 1967. This gave rise to an industrial dispute and the President of India in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—vide Gazette Notification No. ID/FD/352A, dated 27th January, 1968.

Whether the termination of the services of Shri Pritam Dass was justified and in order?
If not to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties in response to which the claimant filed a statement of claim and the management filed a rejoinder to the same. On behalf of the management it is pleaded that on 9th December, 1967, the claimant indulged in disorderly behaviour by making threatening and irrelevant allegations. He was given a charge-sheet which he refused to accept and thereafter he absented himself. The charge-sheet was then sent to him under postal certificate and thereafter nothing has been heard from him. It is alleged that the name of the claimant still continues to be on the rolls of the management. The pleadings of the parties gave rise to the following issues :—

1. Whether the services of the claimant have not been terminated so far and for this reason the reference is premature?
2. Whether the claimant was guilty of disorderly behaviour giving threats and making irrelevant allegations and for this reason he was rightly charge-sheeted?
3. If the above issues are found in favour of the applicant whether the termination of his services is justified and in order? If not, to what relief is he entitled?

Issue No. 1.—The case of the claimant is that he joined the respondent factory on 29th December 1966 and it was then presumed that he would be given an increment in due course and after a year, he asked for increment but it was refused. He then tried to form a union of his co-workers because the management was not giving increment to anybody. The claimant says that he tried to join with him his co-workers Shri Pathrose M.W. 1 and Budha M.W. 2 although his relations with Shri Pathrose was not very cordial because as against him the management had sent him (the claimant) to Bombay for training and Shri Pathrose was not happy about it. The claimant says that Budha told Shri Pathrose that he (claimant) was trying to form a union upon which Shri Pathrose informed the management and Shri I. B. Singh M.W. 4, Production Engineer of the respondent concern called him in his office on 8th December, 1967 and told him that it was not correct to form a union and he should think it over and in case he insisted in forming a union then he would have to quit his job. The claimant says that on the next day the Production Engineer on being told that the union would be formed, ordered him to get out of the factory in the presence of Sarvshri Pathrose, Budha, Jeet and Bahadur, Watchmen.

In case the version of the claimant is to be believed naturally it would mean that the management have terminated the services of the claimant. Without giving him any charge-sheet or a show cause notice but version of the claimant is not corroborated by any of his co-workers. In case the applicant is as innocent as he claims to be and his only fault was that he wanted to form a union for the benefit of his co-workers because the management was adamant in not giving increment to any one of them, it is surprising that not a single co-worker has come forward to corroborate the version of the claimant. On the contrary Sarvshri Pathrose, Budha who according to the evidence of the applicant himself were present at the time he was pushed out of the factory without any rhyme and reason have appeared on behalf of the management and have corroborated the version of the Production Engineer that the claimant was responsible for indulging in disorderly behaviour. I, therefore, see no reason to disbelieve the evidence of Shri I. B. Singh, Production Engineer that the claimant was responsible for disorderly behaviour and when he was given a charge-sheet he refused to accept the same and went out of the factory and thereafter he has been absenting himself. Accordingly, I find this issue in favour of the management.

In view of my findings on issue No. 1 that the services of the claimant have not yet been formally terminated by the management and the reference is pre-mature, it is not necessary to give any findings on the remaining two issues. The reference is held to be pre-mature. I give my award accordingly.

No order as to costs.

Dated, the 3rd May, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 837, dated 8th May, 1968.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

Dated, the 3rd May, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.